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In re Patent of Maki et al. :
Patent No. 7,713,532 :
Issue Date: May 11, 2010 :
Application No. 10/526,744 :
371(c) Date: March 25, 2005 :
Attorney Docket No. 053466-0395 :

OFFICE OF PETITIONS

**DECISION ON REQUEST
FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT**

This is in response to the "Request for Reconsideration of Patent Term Adjustment for Patent Under 37 C.F.R. §1.705(d)." Patentees request the determination of patent term adjustment indicated on the patent be corrected from six hundred forty-eight (648) days to seven hundred three (703) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

As recognized in the request, the 55-discrepancy between the Office's calculation of patent term adjustment and Patentees' calculation of patent term adjustment is the result of a disagreement with respect to the number of days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

Patentees contend the period of B Delay is 369 days. The Office disagrees with the 369-day calculation for two reasons.

This application is the national stage of International Application No. PCT/JP2003/011389. The international priority date is September 6, 2002, and the date 30 months after the priority date was Sunday, March 6, 2005. Patentees used March 6, 2005, as the commencement date when calculating B Delay. However, since the 30-month date fell on a Sunday, the date of commencement is March 7, 2005.

The Office excluded the 54-day time period beginning on January 16, 2009, the date a Notice of Appeal was filed, and ending on March 10, 2009, the day before a Request for Continued Examination ("RCE") was filed, from the period of B Delay. Patentees' assert 35 U.S.C. § 154(b)(1)(B)(i) only provides for the exclusion of time consumed by continued examination from the period of B Delay. However, the Office entered the reduction pursuant to 35 U.S.C.

§ 154(b)(1)(B)(ii), which does provide for the exclusion of any time period consumed by appellate review from period of B Delay. Therefore, the exclusion of 54 days of appellate review from the period of B Delay was proper.

In view of the previous discussion, the patent term adjustment indicated on the patent was correct.

Submission of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. S. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions